

**YAKAMA NATION  
DEPARTMENT OF NATURAL RESOURCES  
FISHERIES SUPERFUND SECTION**

**PORTLAND HARBOR SUPERFUND GRANT PROPOSAL**

**PROJECT NAME:** PORTLAND HARBOR SUPERFUND SITE, OREGON

**TIMELINE:** NOVEMBER 1, 2016 TO DECEMBER 31, 2018 – GRANT PERIOD  
FUNDING REQUESTED WILL COVER ACTIVITIES THROUGH MAY 31, 2017

**BUDGET:** \$239,786 SUPPLEMENTAL REQUEST

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The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on December 11, 1980. This law is used to clean up abandoned or uncontrolled hazardous waste sites. CERCLA established prohibitions and requirements concerning closed and abandoned hazardous waste sites and provided for liability of persons responsible for releases of hazardous waste at these sites. The law authorizes two kinds of response actions:

- Short-term removals, where actions may be taken to address releases or threatened releases requiring prompt response.
- Long-term remedial response actions, that permanently and significantly reduce the dangers associated with releases or threats of releases of hazardous substances that are serious, but not immediately life threatening.

CERCLA also enabled the revision of the National Contingency Plan (NCP). The NCP provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The NCP also established the National Priority List (NPL). The NPL is a list of national priority sites with known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States and its territories.

CERCLA was amended by the Superfund Amendments and Reauthorization Act (SARA) on October 17, 1986. SARA amended CERCLA on October 17, 1986. SARA reflected EPA's experience in administering the complex Superfund program during its first six years and made several important changes and additions to the program. SARA:

- stressed the importance of permanent remedies and innovative treatment technologies in cleaning up hazardous waste sites;
- required Superfund actions to consider the standards and requirements found in other State and Federal environmental laws and regulations;

- provided new enforcement authorities and settlement tools;
- encouraged trustees to actively pursue natural resources damages;
- acknowledged Indian tribes as authorized trustees and allowed for tribal involvement in every phase of the Superfund program; and
- increase the focus on human health problems posed by hazardous waste sites.

SARA also required EPA to revise the Hazard Ranking System (HRS) to ensure that it accurately assessed the relative degree of risk to human health and the environment posed by uncontrolled hazardous waste sites that may be placed on the NPL.

The Yakama Nation is leveraging CERCLA, other federal statutes, and court decisions to cleanup and restore the Columbia River and its tributaries. The Yakama Nation is a natural resource trustee and has a sovereign responsibility to safeguard the health and welfare of its enrolled members. That responsibility includes the protection of its members from exposure to hazardous substances in the food chain, and through direct contact during treaty resource harvest activities. The tribe also has a sovereign responsibility and authority as a natural resource trustee to restore, rehabilitate, and/or replace natural resources that have been lost or injured by releases of hazardous substances from facilities, including state-led cleanup facilities.

#### **PORTLAND HARBOR SUPERFUND SITE**

The Yakama Nation's interests, both on the Reservation and surrounding areas, are protected by the Treaty of 1855 (12 Stat. 951); federal law; and policies governing government-to-government collaboration and consultation. The Yakama Nation has witness the desecration of the Columbia River and its watershed; flooded by dams, polluted by industry, modified by development, and dredged for shipping. In this era of degradation, the Yakama Nation fought from local courts to the U.S. Supreme Court, to protect their treaty rights and to save the salmon from extinction.

The Yakama Nation interests within the Columbia River Basin, including reserved lands and rights covering over twenty million acres throughout its traditional homeland, now in the states of Washington and Oregon. Those interests include protecting and preserving the fisheries resource, and other natural resources, on which its citizens currently and traditionally rely.

The oral history of the Yakamas tells of the sacrifices provided by the salmon who unselfishly gave of itself for the physical and spiritual sustenance of human beings. In return for these sacrifices the Yakamas have an obligation to protect, honor, and give thanks to the salmon.

Outside forces have reduced salmon numbers and created a polluted and life-threatening environment for fish and wildlife to live. For decades, Yakamas have fought to protect salmon and fish habitat. Today and into the future, Yakamas will continue honoring our obligation. Cleanup and restoration of contaminated sites in the Columbia River Basin is important for sustaining the cultural practices of Yakama Nation's members.

For the Portland Harbor Superfund Site (Site), the Yakama Nation is committed to the response process to ensure adequate cleanup and is providing involvement and oversight with an objective of working together in good faith collaboration. Based on discussions with the EPA Regional Administrator and EPA staff, the Yakama Nation's recommendation that EPA select Alternative G with important modifications for the Record of Decision (ROD) at the Portland Harbor site will very likely not be implemented by EPA. Therefore, the Yakama Nation will face a less protective cleanup plan that requires the Yakama Nation to double down on the work needed to protect Treaty resources. The Yakama Nation will continue to work cooperatively with all federal, state and tribal partners, as well as with the responsible parties, who are committed to a cooperative response and

restoration approach. A tremendous amount of technical work must be completed to provide the Yakama Nation with quality data and information to demonstrate the effectiveness of EPA's selected cleanup plan. The Yakama Nation's involvement in the Portland Harbor Superfund Site process will continue through the development the Record of Decision (ROD), response to the ROD, planning of ROD implementation, pre-design (baseline) Site monitoring plan, upland source control, background source evaluation and control, and remedial design development phases as well as all phases of the project until the site has been successfully cleaned up and delisted from the NPL. Throughout this process, the Yakama Nation will continue to focus attention on Portland Harbor impacts to the lower Columbia River and engage in discussion of how to best understand and address those impacts. The timeframe for this work plan is November 1, 2016 to December 31, 2018. The Yakama Nation budget for planned response activities during this timeframe is \$479,571. However, EPA's current available funding amount is \$239,786. The Yakama Nation expects that this funding amount for planned Portland Harbor response activities will be exhausted by May 2017. The planned Portland Harbor response activities include:

- **Understand, Engage, and Communicate regarding the Portland Harbor Record of Decision (ROD)** – The Yakama Nation expended a significant amount of time, energy and tribal influence to make our case regarding the need for the Portland Harbor ROD to be protective of Yakama Treaty resources and rights. However, it is very likely that political pressures and the need for responsible parties agreement on implementation has lead to a cleanup decision that is not protective of Yakama Treaty resources and rights. Based on our understanding of the Proposed Plan (PP), the ROD will result in a partial cleanup leaving a significant volume and acreage of toxic, persistent, and bioaccumulative residual contamination post-cleanup. Instead of adequate cleanup, there will be a reliance on institutional controls that are not protective of the environment and human health, restricting fish consumption and river use. The Yakama Nation plans to do a complete review of the ROD, anticipates technical questions and dialogue with EPA on matters of concern, conduct internal communications, and will engage EPA on how to optimize and measure protectiveness in light of Yakama Nation's concerns regarding protectiveness of Treaty resources.
- **Determine Pre-design (Baseline) Site Monitoring Elements** – Portland Harbor is a particularly complex Site. Although the remedial investigation and feasibility study (RI/FS) moved forward, there are data gaps in the understanding of current Site conditions, background, and downstream impacts. It is critical that the pre-design monitoring plan has clear objectives and is designed to adequately capture baseline conditions so that a meaningful evaluation of cleanup progress and effectiveness can be done. The Yakama Nation will determine the appropriate technical inputs into a monitoring plan to ensure that Treaty resources will be evaluated and protected. (Initial baseline monitoring concepts will be considered, a more thorough framework of necessary baseline monitoring concepts will require additional resources.)
- **Engage in Policy Decisions regarding Upland Source Control and Yakama Nation's Opposition to ODEQ Implementation of the In-Water Remedy** – As stated in our comments on the PP, the Yakama Nation has concerns about the adequacy of upland source control. Combined with the fact that the PP for the in-water portion of Portland Harbor proposes to leave behind significant residual contamination post-cleanup, we have become increasingly alarmed and concerned for the future health of the Willamette and Columbia River systems. To date, the Yakama Nation has not had significant resources to provide oversight in upland source control, yet this is a critical piece that needs greater attention. The Yakama Nation is working on formalizing a relationship with Oregon Department of Environmental Quality (ODEQ) so that we can outline a process with both EPA and ODEQ on monitoring the effectiveness of upland source control at sites surrounding Portland Harbor. EPA, ODEQ and the Yakama Nation also

need to discuss Yakama Nation's opposition to ODEQ's implementation of the in-water remedy. The Yakama Nation had planned to focus on the technical review high priority sites and provide comments on source control decisions to improve protectiveness of treaty resources, as this work is critical and should be completed prior to the implementation of the ROD for the in-water activities. However, without appropriate funding the Yakama Nation will need to focus its time, energy, and limited resources on policy level discussions, agreements, and certified documentation that source control monitoring is providing clear and definitive evidence that Yakama Nation Treaty resources are being protected.

- **Analysis of Background Sources** – As stated in our comments on the PP, anthropogenic background contamination is a concern and will likely impact the effectiveness of cleanup. The Yakama Nation is evaluating background conditions to provide EPA with technical input to ensure that appropriate information is being evaluated and considered during RD monitoring and evaluation of cleanup effectiveness, and that strategies to mitigate background contamination will be evaluated and implemented.
- **Engagement in the Remedial Design (RD)** – In recent conversations with EPA, it is possible that a limited amount of planning and discussions may occur during this grant period. The Yakama Nation expects to engage in RD process to ensure greater protection of treaty resources.
- **Discussions Regarding the Need for a Lower Columbia River (LCR) Monitoring Plan** – As stated in our comments on the PP, the downstream Site boundary is arbitrary and does not adequately delineate the nature and extent of Portland Harbor contamination. There are known contributions of Site contaminants to the LCR, yet Site investigation has not included investigation of the LCR. The Yakama will engage EPA in discussion regarding the need for designing and implementing an LCR monitoring plan to ensure that the Portland Harbor remedy is effectively protecting Yakama Nation Treaty resources and rights in the LCR.

#### **BUDGET**

EPA has committed to maintain tribal involvement with Site activities and has agreed to fund Yakama Nation's participation in response activities related to the Site. The \$239,786 budget, as detailed below, is for the Portland Harbor response activities discussed above. This funding is anticipated to be expended by May 2017. We will engage in regular check-ins with our Project Officer on burn rates and, based on funding needs and activity level, request a supplemental budget in approximately the March-April 2017 time period.

| <b>FEDERAL CLASS CATEGORIES</b> | <b>TOTAL</b>        |
|---------------------------------|---------------------|
| a. Personnel                    | \$114,678.70        |
| b. Fringe Benefits 29.07%       | \$33,337.10         |
| c. Travel                       | \$4,200.00          |
| d. Equipment                    | \$0.00              |
| e. Supplies                     | \$2,225.00          |
| f. Contractual                  | \$44,900.00         |
| g. Construction                 | \$0.00              |
| h. Other                        | \$3,800.00          |
| i. Total Direct Charges         | \$203,190.80        |
| j. Indirect Charges 18.01%      | \$36,594.66         |
| <b>TOTALS</b>                   | <b>\$239,786.00</b> |

+61,072  
+17,754  
+1,400  
-975  
-21,600  
-3,650  
+97.34  
+80,226  
-20,225

| Budget Category Account # | Account Number Description | Budget Line Items                                | Total Hrs | Rate    | 11/1/16 - 5/31/17 Budget |
|---------------------------|----------------------------|--|-----------|---------|--------------------------|
| 512111                    | PERSONNEL                  | Superfund Project Coordinator                    | 750       | \$45.19 | \$33,892.50              |
|                           |                            | Environmental Engineer                           | 600       | \$39.06 | \$23,436.00              |
|                           |                            | Remedial Specialist                              | 60        | \$37.17 | \$2,230.20               |
|                           |                            | Toxicologist                                     | 500       | \$45.00 | \$22,500.00              |
|                           |                            | Administrative Support                           | 750       | \$22.95 | \$17,212.50              |
|                           |                            | Administrative Assistant III                     | 375       | \$15.30 | \$5,737.50               |
|                           |                            | Information Specialist                           | 500       | \$19.34 | \$9,670.00               |
|                           |                            | Subtotal   |           |         | \$114,678.70             |
| 519111                    | FRINGE BENEFITS            | 29.07%   |           |         | \$33,337.10              |
| 581141                    | TRAVEL EXPENSES            | Per Diem/Lodging/Airfare/other (24 trips x\$350) |           |         | \$4,200.00               |
| 541111                    | SUPPLIES                   | office supplies                                  |           |         | \$1,600.00               |
| 541121                    |                            | supplies and equipment                           |           |         |                          |
| 541151                    |                            | printing & binding                               |           |         | \$250.00                 |
| 551111                    |                            | operating  |           |         | \$425.00                 |
|                           |                            | Subtotal   |           |         | \$2,275.00               |
| 521121                    | CONTRACTUAL                | Legal Advisor Contract (DA)                      |           |         | \$4,900.00               |
|                           |                            | Legal Advisor Contract (TZ)                      |           |         | \$10,000.00              |
|                           |                            | Public Relations                                 |           |         | \$5,000.00               |
|                           |                            | Technical Service Contract                       |           |         | \$25,000.00              |
|                           |                            | Subtotal   |           |         | \$44,900.00              |
| 551281                    | OTHER                      | Office rental lease (2)                          |           |         | \$2,700.00               |
| 551291                    |                            | GSA/copier rental (3)                            |           |         | \$600.00                 |
| 531141                    |                            | Training   |           |         | \$500.00                 |
|                           |                            | Subtotal   |           |         | \$3,800.00               |
| SUB - TOTAL               |                            |  |           |         | \$203,190.80             |
| Indirect (18.01%)         |                            |  |           |         | \$36,594.66              |
|                           |                            |  |           |         | <hr/>                    |
|                           |                            |  |           |         | \$239,786.00             |

- Personnel - Category includes staff hours for 7 individuals.
- Fringe benefits - Category includes benefits above and beyond hourly rates (ex. medical, dental, vision, and life insurance, retirement, etc.).
- Travel – Category includes staff travel to and from meetings, assumed to occur in Portland and Seattle
- Supplies – Category includes standard office supplies, based on supply costs for previous years.
- Contractual – Category includes legal consultation, technical support and communications/public relations support.
- Other – Category includes GSA vehicle costs, office rental, and general office equipment leases.

- Indirect charges – Category includes administrative overhead at a rate of 18.01% applied to total direct charges.

**ADDITIONAL BUDGET NOTES:**

- (1) Administrative staff are housed at YN Fisheries Program headquarters in Toppenish, WA. Each Fisheries Unit pays a portion of total costs for: copier/scanner rental, toner, paper, water dispenser, medical supplies.
- (2) The Superfund Section of YN Fisheries is located in Yakima, WA. Office rental is apportioned by project.
- (3) GSA vehicle costs cover vehicle lease, mileage and service (\$0.54/mile).
- (4) Travel to Portland or Seattle will be necessary for this project. Based on previous years and anticipated project involvement, this is an estimate of approximately 24 trips. Total costs are based on a per trip cost of \$350 for hotel/per diem/other.

**WORK PLAN ACTIVITIES**

Detailed Scope of Work, deliverables and budget information.

**Table 2. Work Plan Tasks and Activities**

| Estimated Budget                                       | Anticipated Outputs/deliverables   | Due Date           |
|--|--|--------------------|
| <b>TASK 1: Administrative &amp; Project Management</b> |  |                    |
| \$74,298   | • Coordination of contract   | Ongoing            |
|  | • Project management   | Ongoing            |
|  | • Support staff salaries including a Project Planner, Engineer, Technical Lead, Toxicologist, Information Specialist, Bookkeeper, and Administrative Assistant                                 | Ongoing            |
|  | • Personnel development, hiring additional staff resources   | Ongoing            |
|  | • Strategy & upper level support and communication   | Ongoing            |
|  | • Will deliver quarterly reports within 30 days after the end of each quarter and complete drawdowns after the report has been delivered.  | 1/30/17<br>4/30/17 |
|  | • Will deliver final closeout report within 90 days after the end of the quarter, if no additional funding granted. If grant is continued a quarterly report will be delivered within 30 days. | 9/30/17            |
|  | • Travel (12 trips @ \$350 ea. for GSA vehicle, parking, lodging, per diem)  | Ongoing            |
|  | • Supplies: office supplies, printing & binding, operating   | Ongoing            |
|  | • Other: Office rental lease, GSA rental, copier rental, training  | Ongoing            |
|  | FTEs estimated:  |                    |
|  | • Project Planner (Rose Longoria)  | 0.06               |
|  | • Engineer (Laura Shira)   | 0.02               |
|  | • Information Specialist   | 0.21               |
|  | • Bookkeeper   | 0.31               |
|  | • Administrative Assistant   | 0.15               |
| <b>TASK 2: Communication &amp; Collaboration</b>       |  |                    |
| \$34,850   | • Collaboration and information sharing about cleanup with stakeholder organizations   | Ongoing            |
|  | • Community outreach for developing consensus  | Ongoing            |

|  |  |   |
|--|--|---|
|  | <ul style="list-style-type: none"> <li>• Information sharing around ESA consultations and mitigation requirements with natural resource agencies (FWS, NOAA, etc.)</li> <li>• EPA MOU Meetings</li> <li>• Participate in Technical Communication Team (TCT) meetings</li> <li>• Engage EPA and ODEQ on policy discussions regarding background source evaluation and control and Yakama Nation opposition to ODEQ implementation of in-water remedy</li> <li>• Engage EPA on the need for lower Columbia River monitoring plan</li> <li>• Engage ODEQ on potential MOU development</li> <li>• Provide technical input on background source evaluation and control</li> <li>• Consultation between Tribal Council and Governor Brown's Office</li> <li>• ROD - Government to Government Meeting</li> <li>• ROD - Develop list of concerns and comments and meet to discuss with EPA</li> <li>• ROD – present ROD to Tribal Council</li> <li>• Coordination</li> </ul> | Assumed 1<br>Monthly<br>ongoing<br><br>ongoing<br>2016/2017<br><br>12/16<br>1/17<br>2/17<br>3/17<br>Ongoing |
|  | FTEs estimated: <ul style="list-style-type: none"> <li>• Project Planner</li> <li>• Engineer</li> <li>• Technical Lead (McClure Tosch)</li> <li>• Toxicologist</li> </ul>  | 0.10<br>0.05<br>0.01<br>0.01  |

| TASK 3: Programmatic |   |  |
|----------------------|---|--|
| \$130,638            | <ul style="list-style-type: none"> <li>• Review and provide input on EPA Record of Decision (ROD) for Cleanup (assume 1/15/17 release)</li> <li>• Participate in discussions regarding pre-design (baseline) monitoring concepts</li> <li>• Participate in discussions and development of Remedial Design Plans</li> <li>• Seek to engage individual PRPs in funding negotiations</li> <li>• Technical, Policy, and Cultural Coordination meetings</li> </ul> | 3/17<br><br>2017<br>2017<br>2016/2017<br>Ongoing |
|                      | FTEs estimated: <ul style="list-style-type: none"> <li>• Project Planner</li> <li>• Engineer</li> <li>• Technical Lead</li> <li>• Toxicologist</li> </ul>   | 0.30<br>0.34<br>0.04<br>0.39                     |

The work elements outlined in Table 2 are being submitted to EPA for funding; as agreed upon during meetings with EPA regarding the need to ensure adequate funding for Yakama Nation's participation.

#### **OTHER ACTIVITIES**

As funding participation agreements are negotiated with PRPs, funding would be shifted to those PRPs for related response work and EPA would be notified.